

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHEL TERRY, N,

Plaintiff,

Case No. 1:05-cv-43

v.

Hon. Richard Alan Enslan

LARRY TROMBLEY, et al.,

Defendants.

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**ORDER APPROVING REPORT AND RECOMMENDATION**

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

**THEREFORE, IT IS ORDERED** that the Report and Recommendation of the Magistrate Judge, filed July 21, 2005, is approved and adopted as the opinion of the court.

**IT IS FURTHER ORDERED** that Defendant Trombley's Motion for Failure to State a Claim, Pursuant to FRCP 12(b), or, in the Alternative, Motion for Summary Judgment (dkt. #23) is **GRANTED in part and DENIED in part**.

**IT IS FURTHER ORDERED** that to the extent that plaintiff's complaint is interpreted as asserting a claim for medical malpractice under Michigan law, such claim is **DISMISSED** for the reasons stated in the Report and Recommendation.

Dated in Kalamazoo, MI:  
August 31, 2005

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/s/Richard Alan Enslan  
Richard Alan Enslan  
United States District Judge